

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re Sandra Finch,

)  
)  
) Case No: 1:14-CV-586-WSD  
)  
)

**MOTION TO STAY JUDGMENT PENDING APPEAL**

Comes Now, Sandra Finch, Respondent herein, pursuant to Fed. R. Civ. P. 62(d) and Fed. R. App. P. 8(a)(1)(A) for an order staying the Orders of this Court entered on December 6, 2016 (ECF Doc. No. 165) and December 21, 2016 (ECF Doc. No. 167), pending appeal to the United States Court of Appeals for the Eleventh Circuit. In support of these motions, Respondent respectfully shows the Court as follows:

**STANDARD FOR A STAY PENDING APPEAL**

Rule 62(f) provides “If a judgment is a lien on the judgment debtor’s property under the law of the state where the court is located, the judgement debtor is entitled to the same stay of execution the state court would give.” Fed.R.Civ.P. 62(f).

“In Georgia, a judgment is a lien upon the property of a judgment debtor.” *Dekalb County School Dist. V. J.W.M.*, 445 F. Supp. 2d 1371. 1377 (N.D. Ga. 2006). More specifically, O.C.G.A. § 9-12-80 provides: “All judgments obtained

in the superior courts, magistrate courts, or other courts of this state shall be of equal dignity and shall bind all the property of the defendant in judgment, both real and personal, from the date of such judgments except as otherwise provided in this Code.” Under O.C.G.A. § 9-11-62(d), an appellant is entitled to stay without having to post a bond. *Dekalb County School Dist.* at 1376-77. O.C.G.A. § 5-6-46(a) provides, in relevant part, that “the notice of appeal...shall serve as supersedeas”.

Pursuant to Rule 62(f), because the filing of a notice of appeal acts as a supersedeas under Georgia law and entitles a judgment debtor an automatic stay, this Court must grant Respondent a stay of execution in the instant case upon its December 6, 2016 [Doc. 165] and December 21, 2016 [Doc. 167] orders. See also *Wastecare Corp. v. Shreederhotline.com Co.*, 2014 WL 12538195 (N.D. Ga. May 23, 2014).

### **CONCLUSION**

For the foregoing reasons, Movant respectfully requests that the Court grant a stay of execution pending appeal.

Respectfully submitted this 6<sup>th</sup> day of January, 2017.

/s/ Sandra Finch \_\_\_\_\_  
Sandra Finch, Respondent/Appellant

State Bar No.: 446264

The Russell's Law Firm, P.L.C  
741 E. Fry Blvd., Suite 200  
Sierra Vista, AZ 85635  
520-458-7246